

COMMONWEALTH OF VIRGINIA
Department of Environmental Quality
Tidewater Regional Office

STATEMENT OF LEGAL AND FACTUAL BASIS
Minor Permit Modification

Smithfield Foods, Incorporated
Smithfield, Virginia
Permit No. TRO-60270
Effective Date: July 13, 2004
Expiration Date: February 24, 2008

As required by 40 CFR Part 70 and 9 VAC 5 Chapter 80, Smithfield Packing Company, Incorporated, Gwaltney of Smithfield, Limited, and Smithfield Ham and Products Company, three independently operated, contiguous pork production facilities, under the common control of Smithfield Foods, Incorporated, have applied for a minor permit modification to the three-part Title V Operating Permit for its facilities in Smithfield, Virginia. The Department has reviewed the application and has prepared a modified Title V Operating Permit.

Engineer/Permit Contact: _____ Date: _____

Air Permit Manager: _____ Date: _____

Regional Director: _____ Date: _____

Attachment: NSR permit dated December 19, 2003, for Gwaltney of Smithfield, Limited

STATEMENT OF LEGAL AND FACTUAL BASIS, PART 1:
SMITHFIELD PACKING COMPANY, INCORPORATED

REQUESTED MODIFICATION AND REASON FOR MODIFICATION

The main reason for the minor permit modification is for Gwaltney of Smithfield, Limited, one of the other two facilities under common control of Smithfield Foods, Incorporated, permit number TRO-60270, to incorporate the changes allowed in its amended NSR permit dated December 19, 2003, into the Title V operating permit (please see Part 2 of this document, Statement of Legal and Factual Basis, Part 2: Gwaltney of Smithfield, Limited). Smithfield Packing Company, Incorporated used this opportunity to request on April 9, 2004, the deletion of a meat smokehouse (URN 34) from the list of Insignificant Emission Units in its Title V operating permit (Part 1 of 3, Section VI). The unit had been taken out of service for about a year. Even though it is an insignificant emission unit, the requested change would make the permit more accurate.

Additionally, on May 27, 2004, the facility requested changes in the name of the responsible official and the alternate contact person. The changes meet the definition of an administrative permit amendment pursuant to 9 VAC 5-80-200 A 2, hence, can be conveniently implemented in this minor permit modification.

APPLICABILITY OF 9 VAC 5-80-210

Minor permit modification procedures can only be used for those permit modifications that:

1. Do not violate any applicable requirement.
2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.
3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
4. Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:
 - a. A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and
 - b. An alternative emissions limit approved pursuant to regulations promulgated under §112(i)(5) of the federal Clean Air Act.
5. Are not Title I modifications.
6. Are not required to be processed as a significant modification under 9 VAC 5-80-230 or as an administrative permit amendment under 9 VAC 5-80-200.

The requested modification to remove an insignificant emission unit from the permit meets all the requirements in items 1 to 5 above. It does not qualify as an administrative permit amendment or a significant modification as specified in item 6 above. Therefore, the modification can be processed using the minor permit modification procedures as defined in 9 VAC 5-80-210.

CHANGES TO TITLE V OPERATING PERMIT, PART 1

Condition I. Smithfield Packing Company, Incorporated, Facility Information, page 3 of 31:
New Responsible Official and Alternate Contact Person.

Condition IV.B.4.d. Recordkeeping for Rendering Processes, page 13 of 31:

The requirement "Annual assessment of maximum blood drying equipment capacity,..." is changed to "Annual assessments of maximum rendering equipment capacities,..." to be inclusive of all of the rendering equipment referred to in Conditions IV.A.2 and 3, rather than just the blood drying equipment. This minor change will make the permit condition more accurate, as suggested by the DEQ inspector.

Condition VI. Smithfield Packing Company, Inc., Insignificant Emissions Units, page 16 of 31:
Emission Unit No. 34 is removed from the Table.

Condition VII. Smithfield Packing Company, Inc., Permit Shield and Inapplicable Requirements, Table on page 18 of 31:

40 CFR 60 Subpart Kb was amended on October 15, 2003. Affected facilities were changed from storage vessels with capacity greater than or equal to 40 cubic meters (10,567 gallons), to storage vessels with capacity greater than or equal to 75 cubic meter (19,817 gallons). As a result, tank URN 23 (capacity 18,000 gallons) can be considered exempt by size, as are tanks URN 20, 21, and 24 to 32. Only tank URN 22 (25,000 gallons) remains to be exempt by date of construction. Changes were made to the Table to indicate the correct basis of the inapplicability of NSPS Subpart Kb; the exempt status of the tanks were unchanged.

PUBLIC PARTICIPATION

The public participation requirements of 9 VAC 5-80-270 do not apply to minor permit modifications. Therefore, a public notice is not required.

Under 9 VAC 5-80-210 D, affected states and EPA shall be notified of the minor permit modification request within five days of receipt of a complete application (pursuant to 9 VAC 5-80-210 C). Those notifications were made on April 15, 2004. The minor permit modification cannot be issued until the EPA's 45-day review period has expired.

STATEMENT OF LEGAL AND FACTUAL BASIS, PART 2:
GWALTNEY OF SMITHFIELD, LIMITED

REQUESTED MODIFICATION

On October 26, 2003, Gwaltney of Smithfield, Limited, submitted a Title V minor permit modification request to install a York-Shipley boiler (URN 56) with maximum rated heat input capacity of 6.3 million BTU/hour, using natural gas. The facility also decided not to install the Cleaver Brooks boiler (URN 93), an NSPS Subpart Dc boiler with a maximum rated heat input capacity of 16.3 million BTU/hour. This boiler was permitted for installation in the facility's NSR permit dated August 13, 2002, and included in the Title 5 operating permit that was issued on February 24, 2003. The facility wanted conditions related to the unit deleted from the respective permits.

Additionally, on May 27, 2004, the facility requested changes in the name of the responsible official, the primary contact person and the alternate contact person.

REASON FOR MODIFICATION

The facility's NSR permit dated August 13, 2002, was amended on December 19, 2003, mainly to (i) delete conditions applicable to boiler URN 93 that has never been installed and will not be installed, (ii) to add applicable requirements for boiler URN 56 to be installed, and (iii) to incorporate wording and citation changes resulting from the new Virginia minor NSR regulation 9 VAC 5-80 Article 6 that was promulgated on September 1, 2002.

The name changes requested on May 27, 2004, meet the definition of an administrative amendment pursuant to 9 VAC 5-80-200 A, hence, can be conveniently implemented in this minor permit modification.

APPLICABILITY OF 9 VAC 5-80-210

Minor permit modification procedures can only be used for those permit modifications that:

1. Do not violate any applicable requirement:

The deletion of permit conditions related to boiler URN 93 that has never been installed does not violate any applicable requirement.

2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements:

Boiler URN 56 is exempt from NSR permitting by 9 VAC 5-80-1320 B because its maximum rated heat input capacity is less than 10 million BTU/hr, and it can use either liquid or gaseous fuels. The facility has stated in their letter dated October 26, 2003, that the boiler will use natural gas only. The installation of this unit does not by itself trigger an NSR permit action. A boiler with a heat input level less than 10 million BTU/hr using natural gas also qualifies as an insignificant emission unit in a Title V permit (9 VAC 5-80-720 C). The amended NSR permit dated December 19, 2003, only makes sure that the unit uses natural gas as stated by the facility. The facility is also subject to the visible emission limits (9 VAC 5-50-80) that are applicable to all new sources, and the appropriate monitoring and recordkeeping to ensure compliance. Those requirements are the same as those applicable to boiler URN 54 already in the permit. Therefore, there are no significant changes to existing monitoring, recordkeeping, and reporting.

3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis:

The modification does not change any of the above referenced determinations.

4. Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:
 - a. A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and
 - b. An alternative emissions limit approved pursuant to regulations promulgated under §112(i)(5) of the federal Clean Air Act.

The facility does not have any of these types of limits in their Title V operating permit.

5. Are not Title I modifications:

The requested modification is not a Title I modification.

6. Are not required to be processed as a significant modification under 9 VAC 5-80-230 or as an administrative permit amendment under 9 VAC 5-80-200:

The requested modification does not qualify as an administrative permit amendment or a significant modification.

Therefore, the modification can be processed using the minor permit modification procedures as defined in 9 VAC 5-80-210.

CHANGES TO TITLE V OPERATING PERMIT, PART 2

The main sections in Part 2 of the Title V permit dated February 24, 2003, were numbered X to XVII instead of from I to VIII as they should have been. Note that the numbering in the Table of Contents was correct. Therefore, the section numbers were corrected during this modification. In addition, the following minor changes were made:

Old condition	New Condition	Change
X. Gwaltney of Smithfield, Limited, Facility Information	I. Gwaltney of Smithfield, Limited, Facility Information	Responsible Official, Primary Contact Person, and Alternate Contact Person, page 3 of 26: New names. Facility Description, second paragraph, top of new page 4 of 26: <ul style="list-style-type: none"> - The NSR permit dated December 19, 2003, is referred to, instead of the superseded NSR dated August 13, 2002. - Reference to boiler URN 93 is removed, and the newly added boiler URN 56 is described.
XI. Gwaltney of Smithfield, Limited, Emissions Units and Control Device Identification	II. Gwaltney of Smithfield, Limited, Emissions Units and Control Device Identification	URN 93 was deleted from the equipment list and URN 56 was added.
XII. Gwaltney of Smithfield, Limited, Fuel Burning Equipment - (Boilers URN 51 to URN 54) A. Limitations for Boilers URN 51 to URN 54: Conditions 1 to 8	III. Gwaltney of Smithfield, Limited, Fuel Burning Equipment - (Boilers URN 51 to 54, and URN 56) A. Limitations for Boilers URN 51 to 54, and URN 56: Conditions 1 to 10	Boiler URN 56 is included. Also, throughout this section, the citation of the appropriate conditions of the NSR permit dated August 13, 2002, is changed to those of the NSR permit dated December 19, 2003. Boiler URN 56 is included. Other than the citation change, the original 8 conditions are kept the same except for the numbering. Two new conditions are added (Conditions 2 and 10) for URN 56 according to the new NSR permit:

Old condition	New Condition	Change
<p>B. Periodic Monitoring and Recordkeeping for Boilers URN 51 to URN 54</p> <p>1. Periodic Visual Observations for Boilers URN 51 to URN 54</p> <p>3. Recordkeeping for Boilers URN 51 to URN 54</p> <p>b. Monthly and annual throughputs of natural gas and fuel oils for boiler URN 54. Annual throughputs shall be calculated monthly as the sum of each consecutive 12-month period;</p> <p>e. Records of visible emissions observations and visible emissions evaluations (VEE) conducted, and any corrective action taken for boilers URN 51 to URN 54; and</p> <p>C. Testing for Boilers URN 51 to URN 54</p>	<p>B. Periodic Monitoring and Recordkeeping for Boilers URN 51 to 54 and URN 56</p> <p>1. Periodic Visual Observations for Boilers URN 51 to 54, and 56</p> <p>3. Recordkeeping for Boilers URN 51 to 54, and URN 56</p> <p>b. Annual throughputs of natural gas and fuel oils for boiler URN 54. Annual throughputs shall be calculated monthly as the sum of each consecutive 12-month period;</p> <p>e. Records of visible emissions observations and visible emissions evaluations (VEE) conducted, and any corrective action taken for boilers URN 51 to 54, and URN 56; and</p> <p>C. Testing for Boilers URN 51 to 54, and URN 56</p>	<p>2. Approved Fuel for Boiler URN 56</p> <p>10. Visible Emissions Limit for Boiler URN 56 Boiler URN 56 is included.</p> <p>Boiler URN 56 is subject to the periodic visual observations to demonstrate compliance with its visible emission limit.</p> <p>Recordkeeping for Boiler URN 56 is included.</p> <p>The amended NSR dated December 19, 2003, indicated in Condition 13 that it is sufficient to keep records of annual throughputs, calculated monthly as the sum of each consecutive 12-month period.</p> <p>Records of any visible emissions observations for boiler URN 56 are included to demonstrate compliance with its visible emission limits.</p> <p>Boiler URN 56 is included in case VEE is necessary.</p>

XIII. Gwaltney of Smithfield, Limited, Fuel Burning Equipment Requirements – Boiler URN 93		The whole section is deleted as boiler URN 93 is no longer in the equipment list.
XIV. Gwaltney of Smithfield, Limited, Facilitywide Conditions	IV. Gwaltney of Smithfield, Limited, Facilitywide Conditions	Nothing is changed except that applicable conditions from the NSR permit dated August 13, 2002, are changed to those of the NSR permit dated December 19, 2003.
XV. Gwaltney of Smithfield, Limited, Insignificant Emission Units	V. Gwaltney of Smithfield, Limited, Insignificant Emission Units	No change in content
XVI. Gwaltney of Smithfield, Limited, Permit Shield and Inapplicable Requirements	VI. Gwaltney of Smithfield, Limited, Permit Shield and Inapplicable Requirements	<p>Boiler URN 56 is added to the list of equipment not subject to 40 CFR 60 Subpart Dc and 9 VAC-5-80-880 et seq., Part II, Article 8.</p> <p>Also, minor changes are made to reflect 40 CFR 60 Subpart Kb as amended on October 15, 2003. Affected facilities were changed from storage vessels with capacity greater than or equal to 40 cubic meters (10,567 gallons), to storage vessels with capacity greater than or equal to 75 cubic meter (19,817 gallons). Tanks URN 82, URN 83, and URN 84 are still exempt by size while tank URN 81 is exempt by its date of construction, reconstruction or modification preceding July 23, 1984. Changes were made to the Table to indicate the correct basis of the inapplicability of NSPS Subpart Kb; the exempt status of the tanks were unchanged.</p>

PUBLIC PARTICIPATION

The public participation requirements of 9 VAC 5-80-270 do not apply to minor permit modifications. Therefore, a public notice is not required.

Under 9 VAC 5-80-210, affected states and EPA shall be notified of the minor permit modification request within five days of receipt of a complete application (9 VAC 5-80-210 C). Those notifications were made on April 15, 2004. The minor permit modification cannot be issued until the EPA's 45-day review period has expired.

STATEMENT OF LEGAL AND FACTUAL BASIS, PART 3:
SMITHFIELD HAM AND PRODUCTS COMPANY, INCORPORATED

REQUESTED MODIFICATION

On March 24, 2004, Smithfield Ham and Products Company requested the addition of a Kartridge Pak Smoke Generator (URN 107) to the Title V operating permit dated February 24, 2003. This was to be carried out while minor modifications were being made for Gwaltney of Smithfield, Limited (please see Part 2 of this document, Statement of Legal and Factual Basis, Part 2: Gwaltney of Smithfield, Limited). The unit is an existing one which had been overlooked in the Title V permit application.

Additionally, on May 27, 2004, the facility requested changes in the name of the primary contact person and the alternate contact person.

REASON FOR MODIFICATION

The Kartridge Pak Smoke Generator (URN 107) is electrical, uses water at 1-3 gallons per minute, and smoldering up to 26 lbs of sawdust per hour. The smoke is ducted to the Alkar Food Processing ovens (URN 105 and 106, insignificant emission units) to introduce smoke flavor to the meat products. The unit is not considered a fuel burning equipment. PM and VOC are the pollutants of concerns, and the potentials to emit are calculated as shown below, using emission factors from AP-42, Table 9.5.2-1 (9/95) for Batch Smokehouses.

Pollutants	Emission Factor (lbs/ton saw dust)	Potential to emit	
		Lbs/hr	Tons/yr
PM	53	0.69	3.0
VOC	44	0.57	2.5

Lbs/hr = EF lbs/ton saw dust x 1 ton/2,000 lbs x 26 lbs saw dust/hr

Tons/yr = lbs/hr x 8760 hrs/yr x 1 ton/2,000 lbs

The conservatively estimated potentials to emit are less than 5 tons/year. Hence, the unit qualifies as an insignificant emission unit according to 9 VAC 5-80-720 B and can be added to the appropriate list in the Title V permit which becomes more accurate as a result.

The name changes requested on May 27, 2004, meet the definition of an administrative amendment pursuant to 9 VAC 5-80-200 A, hence, can be conveniently implemented in this minor permit modification.

APPLICABILITY OF 9 VAC 5-80-210

Minor permit modification procedures can only be used for those permit modifications that:

1. Do not violate any applicable requirement.
2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.
3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
4. Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:
 - c. A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and
 - d. An alternative emissions limit approved pursuant to regulations promulgated under §112(i)(5) of the federal Clean Air Act.
5. Are not Title I modifications.
6. Are not required to be processed as a significant modification under 9 VAC 5-80-230 or as an administrative permit amendment under 9 VAC 5-80-200.

The requested modification to add an insignificant emission unit to the appropriate list meets all the requirements in items 1 to 5 above. It does not qualify as an administrative permit amendment or a significant modification as specified in item 6 above. Therefore, the modification can be processed using the minor permit modification procedures as defined in 9 VAC 5-80-210.

CHANGES TO TITLE V OPERATING PERMIT, PART 3

The main sections in Part 3 of the Title V permit dated February 24, 2003, were numbered XVIII to XXIV instead of from I to VII as they should have been. Note that the numbering was correctly shown in the Table of Contents. Therefore, the section numbers were corrected during this modification. In addition, the following minor changes were made:

Condition I. Smithfield Ham and Products Company, Facility Information, page 3 of 23:
New Primary Contact Person and Alternate Contact Person.

Condition VI. Smithfield Ham and Products Company, Insignificant Emissions Units, page 10 of 23:

Emission Unit No. 107, the Kartridge Pak Smoke Generator, is added to the list of Insignificant Emission Units as discussed above.

Condition VII. Smithfield Packing Company, Inc., Permit Shield and Inapplicable Requirements, Table on page 11 of 23:

40 CFR 60 Subpart Kb was amended on October 15, 2003. Affected facilities were changed from storage vessels with capacity greater than or equal to 40 cubic meters (10,567 gallons), to storage vessels with capacity greater than or equal to 75 cubic meter (19,817 gallons). Therefore, the write-up for the inapplicability of 40 CFR 60, Subpart Kb was revised just to reflect the change in the regulations and to improve the accuracy of the permit; there was no substantive change in the inapplicable requirements.

PUBLIC PARTICIPATION

The public participation requirements of 9 VAC 5-80-270 do not apply to minor permit modifications. Therefore, a public notice is not required.

Under 9 VAC 5-80-210 D, affected states and EPA shall be notified of the minor permit modification request within five days of receipt of a complete application (pursuant to 9 VAC 5-80-210 C). Those notifications were made on April 15, 2004. The minor permit modification cannot be issued until the EPA's 45-day review period has expired.